

File Memorandum

Date of Memo: January 10, 2005

Subject: Supplemental Rationale for Decision

Author: David Dralle

File: Greenfield Homes, LLC 2003-01972(1)

- 1) The Highland Meadows (Greenfield Homes, LLC is the developer) project is located north of NYS Route 370 (W. Genesee Ave.) and east of NYS 690, in the Town of Lysander, Onondaga County, New York.
- 2) Subsequent to the jurisdictional determination made in 2003 (pathway (0)), the New York State Attorney General's (AG) Office by letter dated November 14, 2004, notified the Corps and EPA of their intent to sue the Corps and EPA under the Clean Water Act. The AG asserts that a culverted drainageway, verified by staff of the AG on a site visit, provides a connection between wetland 3 and a navigable water.
- 3) On December 13, 2004, a site inspection by David Dralle and Bridget Brown of the AFO verified a surface flow from wetland 3 into a piped storm water sewer system, which is a surface hydrologic connection to a Navigable Water of the United States (Seneca River). A surface water connection between wetland 2 and 3 was also verified. See site visit memo for detail.
- 4) Based on the new information of the surface water connection, wetland 3 is adjacent to a tributary system of a Navigable Water of the United States and subject to regulation under the Clean Water Act. Based on the verification of the surface water connection between wetland 2 and wetland 3, wetland 2 is adjacent to a tributary system of a Navigable Water of the United States and subject to regulation under the Clean Water Act.
- 5) The original jurisdictional determination (JD) will be rescinded and a new JD will be issued to the applicant indicating that all wetlands on-site, Wetland 1-3 totalling 23.51 acres, are under Federal Regulation. In addition, a response will be sent to the AG indicating our determination.